

REMARKS

I. Double Patenting Rejection

The Office Action rejected Claim 1 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 6,388,813. A terminal disclaimer is filed herewith to overcome this rejection.

II. Rejections Under 35 U.S.C. § 102

The Office Action rejected Claim 1 under U.S.C. § 102 (b) as being anticipated by Muoio (U.S. Patent No. 5,740,560). The Office Action also rejected Claim 1 under U.S.C. § 102 (b) as being anticipated by McNeal (U.S. Patent No. 4, 716, 601). The Office Action also rejected Claim 1 under U.S.C. § 102 (b) as being anticipated by Cogan (U.S. Patent No. 6,085,358).

A. The Standard for a 35 U.S.C. §102 Rejection

Anticipation cannot be established unless a single prior art reference discloses each and every element of the claimed invention. Structural Rubber Co. v. Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984). Moreover, in order to establish anticipation it must be shown that all of the claimed elements are found in exactly the same situation and united in the same way to perform the identical function in a single unit of the prior art. *See, e.g., Studiengeselosehaft Kohle m.b.H. v. Dart Industries*, 762 F.2d 724, 220 U.S.P.Q. 841 (Fed. Cir. 1984) In light of this legal standard, Applicant believes that cited references fail to anticipate the present invention.

B. Brief Summary of Applicant's Claimed Invention

Independent Claim 1 (was Claim 10 in Preliminary Amendment filed with the application) and newly added dependent Claim 2 are pending.

Independent Claim 1 is as follows:

1. An optical stack of laminated removable lenses for affixing to a viewing surface comprising:

a plurality of superposed removable lenses adhesively affixed to one another;

each said removable lens being held to each successive lens with a clear uninterrupted adhesive layer interposed between each said removable lens;

each said lens having a removable tab portion on at least one end which does not have any adhesive layer on either side of said tab portion for allowing a user to quickly grasp said removable tab portion for removing the top lens and exposing a clean lens directly underneath said removed top lens.

The claim requires “a clear uninterrupted adhesive layer interposed between each said removable lens.” From an optical standpoint, when two optical substrates are laid on one another, each substrate maintains their surface reflection characteristics because there is usually a small air gap creating an index mismatch. If the gap between the two substrates is within several wavelengths of light additional interference phenomena occur which set up selective reflection based on wavelength. In order to eliminate these reflections the adhesive must completely fill the air gap without any interruptions as each interruption, even at the micron level, will produce reflection. Therefore, “clear uninterrupted adhesive layer” not only specifies the adhesive characteristic as being “clear” (i.e., unclouded), but also specifies that the structure of the “layer” is contiguous and without interruptions, which eliminates the inter-surface reflections.

As described below, none of the cited references teaches or suggests “a clear uninterrupted adhesive layer interposed between each said removable lens.” Therefore, reconsideration and withdrawal of the prior rejection is respectfully requested.

C. The Muoio Reference Does Not Anticipate the Claimed Invention

The Muoio reference discloses protective goggles having a transparent protective member made of a polarizing lens. The goggles are described as being “completed by a pair of replaceable lens covers or shields 30 and 32 as illustrated in FIGS. 4 and 5. Covers 30 and 32 both comprises a transparent substrate 34 and 36, respectively. Substrates 34 and 36 are secured in position by adhesive patches 38 and 40, respectively. Shields 30 and 32 include upper portions 42 and lower portions 44. The upper portion is meant to be adhered to the inside surface of the lens. Likewise, the lower portion 44 of each of the shields is intended to be adhered to the outside surface of the lenses. Accordingly, the adhesive that forms patches 38 and 40 is disposed over the substrates 34

and 36 of the shields, respectively.” Col 3, lines 53-64. This embodiment does not teach or suggest “a plurality of superposed removable lenses adhesively affixed to one another.” Nor does it teach or suggest “each said removable lens being held to each successive lens with a clear uninterrupted adhesive layer interposed between each said removable lens.” Nor does it teach or suggest “each said lens having a removable tab portion on at least one end which does not have any adhesive layer on either side of said tab portion for allowing a user to quickly grasp said removable tab portion for removing the top lens and exposing a clean lens directly underneath said removed top lens.”

The Muoio reference discloses another embodiment in which “[i]t is contemplated that the shields will be made available in the form of a pad which will allow one shield at a time to be removed.” Col. 4, lines 31-34. The reference goes on to say that “[t]he pad 200 is particularly easy to use because the peripheral portions 235 of the individual shields 230 do not have adhesive.” Col. 4, lines 38-40. This embodiment also does not teach or suggest “each said removable lens being held to each successive lens with a clear uninterrupted adhesive layer interposed between each said removable lens.” The reference does not differentiate between adhesive in the viewing zone or out of the viewing zone.

Because the cited reference does not disclose all of the claimed limitations required by independent Claim 1, Applicants respectfully submit that Claim 1 is patentable over the Muoio reference.

D. The McNeal Reference Does Not Anticipate the Claimed Invention

Independent Claim 1 includes the following limitation: “each said removable lens being held to each successive lens with a clear uninterrupted adhesive layer interposed between each said removable lens.” The clear uninterrupted adhesive layers 20 ... interposed between the removable lenses 15 ... are shown in Figures 3 and 5. McNeal does not teach or suggest such clear, uninterrupted layers of adhesive. As shown in Figure 1, the layers of adhesive 14 are interrupted. The adhesive is located only along the upper and lower peripheral edges of the lenses, and not in the viewing portion 18. *See* col. 5, lines 1-6 and Figure 1.

Because the cited reference does not disclose all of the claimed limitations required by independent Claim 1, Applicants respectfully submit that Claim 1 is patentable over the McNeal

reference.

E. The Cogan Reference Does Not Anticipate the Claimed Invention

The Cogan reference discloses a stack of shield guards wherein at least one of the shield guards, preferably one of the center shield guards is tinted. The reference does not disclose any adhesive between the shield guard, let alone "each said removable lens being held to each successive lens with a clear uninterrupted adhesive layer interposed between each said removable lens" as recited in Claim 1.

Because the cited reference does not disclose all of the claimed limitations required by independent Claim 1, Applicants respectfully submit that Claim 1 is patentable over the Cogan reference.

CONCLUSION

Applicants respectfully submit that all of the stated grounds of rejections have been overcome. Accordingly, an early Notice of Allowance is respectfully requested. Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicants' representative at the number listed below.

Attached hereto is a copy marked "VERSION WITH MARKINGS TO SHOW CHANGES MADE" to show the changes made to the specification and claims.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

The following new claim has been added:

2. (New) The optical stack of removable lenses as recited in claim 1 further comprising: a second removable tab portion opposite the end of said removal tab portion.

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